(19)

HIGH COURT OF CHHATTISGARH : BILASPUR

CORAM: HON'BLE SHRI S.R. NAYAK, CJ, &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

CIVIL REVISION NO. 167/2006

APPLICANTS:

1. State of Chhattisgarh, Through: The Secretary, Public Works Department. DKS Bhawan, Mantralaya, Raipur, Chhattisgarh.

2. The Chief Engineer Buildings and Roads, Public Works Department, Bilaspur, (CG)..

Versus

NON-APPLICANT: Natwarlal Goyal, r/o. Kawada Badi, Raigarh, (CG).

PRESENT:
Shri Utkarsh Verma, Dy. Govt. Advocate for the applicants/ State.

ORDER

(Dated 10th November, 2006)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

Being aggrieved by the award passed by Chhattisgarh Madhyastham Adhikaran, Raipur in Reference No.89/2005 wherein parties are Natwarlal Goyal Vs. State of Chhattisgarh and others whereby the Tribunal allowed the reference and directed both the applicants to pay an amount of Rs.78,470/- along with interest @ Rs. 12% to non-applicant Natwarlal Goyal, this revision has been preferred under Section 19 of the Chhattisgarh Madhyastham Adhikaran Adhiniyam, 1983 (henceforth,

Adhiniyam), by the State of Chhattisgarh and Chief Engineer who are applicants herein.

2) Natwarlal Goyal – non-applicant was awarded work of Asphalling of Chapel – Nandeli Road under agreement dated 243/D/1996-97 by the Public Works Department. After completion of the work contract, final bill was prepared, but the amount of final bill amounting to Rs.78,470/- was not paid by the department to non-applicant Natwarlal Goyal in the garb of letter dated 06/05/1997 alleged to be issued by non-applicant Natwaral Goyal authorizing department to adjust the amount against recovery pending against Shri Shankar Lal Sharma, Toll Tax Contractor and acting on the basis of that letter the amount payable to non-applicant Natwarlal Goyal has been adjusted. Natwarlal Goyal referred the dispute by presenting his reference petition to the Tribunal. Learned Tribunal after necessary enquiry as envisaged under the Act, decided the objection raised by the department regarding limitation and liability to pay. The Tribunal after due consideration held that the reference petition is well within time and the alleged letter dated 06/05/1997 has not been proved to be sent by non-applicant Natwarlal Goyal or ever it was verified from him and the amount payable to non-applicant Natwarlal Goyal has been wrongly adjusted by the department.

3) Learned counsel for the applicants contended that the reference filed by the non-applicant Natwar Lal Goyal was time barred, as non-applicant Natwar Lal Goyal did not submit his claim in writing to the Engineer-in-Chief within one month from the date of accrual of such claim. From the award it is clear that on 12/10/1999 non-applicant Natwar Lal Goyal sought time for filing the reference before the final authority and only after that since the final authority has failed to take any decision in the matter who was moved within three years from the date of accrual of

the cause of action, therefore, the Tribubal held that the reference is well within time.

4) Section 7-B of the Act does not prescribe any time limit for referring the matter for the decision to final authority. It appears that according to law of limitation within three years, the claimant is entitled to present his reference before the authority. Therefore, learned Tribunal did not err in holding the reference to be within limitation.

5) Learned counsel for the applicant further contended that the letter dated 06/05/1997 written by non-applicant Natwarlal Goyal for allowing the adjustment was adduced before the Tribunal, but the Tribunal did not appreciate it properly and passed the award. From the award, it is manifest that Tribunal very minutely considered the affidavit filed by the department and the report of the Executive Engineer Shri R.K. Diwan dated 21/05/1998 submitted to the Station House Officer and after appreciation of the material on record, held that neither the letter was presented by non-applicant Natwarlal Goyal nor the same was personally verified by him. Even the report dated 21/05/1998 was not proved by any evidence or affidavit. Learned Tribunal rightly held that the department miserably failed to prove the document dated 06/05/1997 and wrongly adjusted the amount payable to non-applicant.

6) The last contention of learned counsel for the applicant is that the rate of interest is on higher side. The Tribunal has been authorized to allow the amount along with cost and interest, and it is in his discretion. According to Section 16 of the Act, the rate of interest is to be fixed by the Tribunal as may appear reasonable to it. The rate of interest i.e., 12% allowed by the Tribunal does not appear to be unreasonable and the discretion exercised by the Tribunal in allowing the rate of interest 12% does not appear to be arbitrary or illegal.

7) In the result, the revision being devoid of merit is liable to be dismissed and is accordingly dismissed in limine.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

Raju